

ONTARIO POWER SITUATION

London Financier Says Action of Dominion Parliament is Awaited

The following article on the Ontario power situation appeared in a recent issue of the London Financier:—

British capital has been so freely subscribed towards the development of Canada's industries that investors on this side have every reason to expect that their interests are properly safeguarded by the Dominion and provincial legislatures. Hitherto it has been taken for granted that this would be done, but, unfortunately, there is now reason to fear that there is one of the provincial governments whose good faith can no longer be relied upon. We refer to the government of Ontario, whose treatment of British capital invested in the electrical power industry can only be described as arbitrary and unjust. The dispute between the government and the power companies is of many years' standing, but it has now reached a point when it has ceased to possess merely local significance. The reputation, not only of Ontario, but of the Dominion government for fair dealing towards British investors is at stake. We may go further and say that this is a test case, involving the right of individuals to protest against the repudiation of agreements solemnly entered into by the State. While the empire is fighting for the principle that treaties between nations are sacred and cannot be torn up as mere scraps of paper, we cannot afford to shut our eyes to acts of injustice perpetrated by a petty provincial legislature which happens to have been captured by demagogues.

In such a case the group of citizens who consider themselves to have been wronged should surely have the right of appeal to a higher authority. That has so far been denied them, though there is reason to hope that when the facts become fully known and appreciated such a storm of indignation will be aroused as to compel the repeal of the unjust legislation which has been the cause of the trouble. Already we have reason to believe that the Ontario power scandal has created grave concern in Canadian financial circles, and this will no doubt be shared by British investors in Canadian undertakings when the position is fully appreciated.

Recital of Facts.

Briefly, the facts are as follows: In 1903 the executive government, through the Niagara Falls Park Commissioners, entered into agreements with certain companies, among them the Ontario Power Company and the syndicate which afterwards became the Electrical Development Company of Ontario. In general terms these agreements permitted the respective companies to take specified quantities of water from the Niagara and Welland rivers for specified rentals payable to the commissioners. The latter bound themselves not to lease similar powers to any other "company or person" at less rentals than those payable under the agreements by the companies in question. The commissioners also undertook that they would not themselves make use of the water to generate electric or other power, except for the purposes of the park or in the event of failure on the part of the licensees to carry on the work. On the faith of these agreements, duly ratified by the government and the provincial legislature, the funds necessary for the prosecution of the enterprise were procured, mainly from British investors, and the construction of the plant was effected. In 1905 two companies were actually engaged in the production and distribution of power, and a third, the Electrical Development Company, was in course of installing its plant for the production and distribution of 125,000 horsepower. The latter company encountered great engineering difficulties in the construction of its plant, and had not yet begun to distribute, when an agitation arose for the production of cheap electrical power by the municipalities of Ontario. The Hydro-Electric Commission, which was appointed by the Government, embarked upon the distribution of power in competition with its own licensees. This action aroused much uneasiness among investors, but worse was to follow.

Virtually Confiscatory Acts.

In the session of the legislature of 1916 the government passed what are virtually confiscatory acts. The principal objectionable features in this legislation are the explicit abrogation of a contractual undertaking between the government and the power companies in respect to the taking of water and the production of power and the inquisitorial

functions which are for the first time entrusted to the Hydro-Electric Commission. Notwithstanding the provision in the original contract, the act of 1916 expressly empowers the government commission to use the waters of the Niagara or Welland rivers, and to construct the necessary works for the generation of electrical energy. These measures were forced upon the legislature at the very close of the session, at a time when the war was distracting public attention, and were not adequately discussed. Their effect is to prepare for the elimination of private enterprise in electrical distribution, to establish a monopoly in favor of the Hydro-Electric Commission, and to increase enormously both provincial and municipal indebtedness. The commission is proposing to expend between 20 and 30 million dollars for a power plant on the Chippawa River, where it joins with the Niagara River above the Falls, and ten million dollars for a further transmission line, besides contemplating the construction of hydro-radial railways through the province. While light-heartedly entering into these huge financial commitments they adopt a course towards the existing companies which is calculated to make capital give the province of Ontario a very wide berth for many years to come.

Above the Law.

It may be said that the companies threatened have their remedy in the law courts, but the Hydro-Electric Commission claims to be above the law. The act by which it was constituted provides that the commission is immune from process of law excepting through a fiat of the provincial attorney-general. This fiat has been thrice refused, but the matter will not rest here. The Dominion parliament will be asked to intervene, and to disallow the arbitrary legislation of Ontario. But it is difficult, as Professor Mavor points out in an article in the Financial Post of Canada, to call into question the acts of an executive government, owing to the legal fiction of the irresponsibility of the Crown, which on this occasion is transferred with extremely doubtful propriety to a small and not very stable group of party politicians.

Is a Grave Affair.

It is a really grave affair, says the Professor, to call their proceedings in question, no matter how injuriously these proceedings may affect either private interests or the public interests of the state. The more arbitrary its actions the more tenaciously will the authority which commits them refuse to have its proceedings called in question. But there is, fortunately, a higher power in the land than the government of Ontario, and we await with confidence such action on the part of the Dominion parliament as will compel the suspension of the confiscatory legislation pending a reference of the whole case to the Privy Council of the empire, which is the one legal authority competent to decide upon the grave issues involved.

IDEAL CIVIC GOVERNMENT

That the Dominion government be urged to appoint a commission of municipal experts or to establish a national bureau of municipal research, whose duty it will be to advise upon an efficient form of civic government, and after taking the necessary steps for its adoption throughout Canada to systematize, investigate and advise upon all municipal matters, was the plea of a resolution proposed by Mr. C. J. Yorath, city commissioner of Saskatoon, at the recent annual convention of Canadian municipalities, Montreal. The resolution also drew attention to the necessity of urging the provincial governments throughout Canada to establish commissions or local government boards, similar to the local government board of Great Britain, whose duty it will be to supervise civic development and the expenditure of capital moneys by local authorities within their respective provinces.

Mr. Yorath read at this convention an instructive paper on the ideal form of civic government. He suggested that the principles which should be recognized in order to obtain successful civic government and development are: 1. Popular control by proper representation. 2. Division of government authority into (a) legislative and financial; (b) administrative; and 3. Experienced control of administration and development.

Mr. Yorath's paper has been printed in pamphlet form and will prove of considerable interest to municipal authorities.